

## **LICENSING COMMITTEE**

**3 SEPTEMBER 2020**

### **BUSINESS & PLANNING ACT 2020 AND IMPLICATIONS FOR LICENSED PREMISES**

#### **1.0 Purpose of Report**

- 1.1 To seek approval for the implementation of the above Act in relation to pavement licenses and other impacts on licensed premises.

#### **2.0 Background**

- 2.1 The Business & Planning Act 2020 is new legislation that has been introduced to support business with arrangements to trade effectively during the controls imposed as part of the combatting of the coronavirus.

##### Pavement Licences

- 2.2 The Act includes provision for a new legal framework for issuing pavement licences, which will enable food and drink businesses to put removable furniture on the pavement adjacent to their premises in order to sell or serve food and drink, or for people to sit at to consume food and drink. The framework will supersede the existing framework for pavement licensing set out in the Highways Act 1980, but does not impact licences already issued under that Act.
- 2.3 The powers are given to district and borough councils who will be required to process applications for pavement licences within two weeks and a maximum fee of £100 will be payable. Each application will be subject to a seven-day consultation period, with any representations required to be considered in determining the application. Licences must be for a minimum of three months but at a councils' discretion can run for any period up to an end date of 30 September 2021. Where a council does not respond to an application within two weeks, a licence will be deemed to have been granted for a year but not beyond 30 September 2021. Both councils and the Secretary of State may issue conditions in relation to pavement licences: where licence conditions are breached, the council can serve a remediation notice or revoke the licence.
- 2.4 The applicant is required to post a notice of the application on the premises it relates to; this needs to be on the same day that the application is submitted to the local authority. The applicant must ensure the notice remains in place for the seven-day consultation period, which starts the day after the application is submitted to the council. Draft guidance includes a template public notice which could be provided to applicants or made available with application details on councils' website.
- 2.5 Councils will also need to publish the applications they receive, alongside any information submitted by the applicant; this could be on the council's website. Councils will need to consider data protection before publishing applications online. It should also be clear how representations can be made by members of the public in relation to individual applications and when the consultation period comes to an end.

- 2.6 We are required to consult the highways authority on new applications (if they are not the highways authority) as well as anyone else they consider appropriate. This could potentially include planning, environmental health, local police and fire & rescue service and the relevant Ward member. A list of proposed consultees are set out below.
- 2.7 The Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted these are: a no-obstruction condition and a smoke-free seating condition. In addition to the national conditions a set of local conditions will be attached to the licence. These are very similar to the county conditions relating to pavement licences. Where possible these have been agreed with other Nottinghamshire authorities

### Alcohol Licensing – Off Sales

- 2.8 The Act also makes amendments to the Licensing Act 2003 so that any premises with licences which currently only permit drinks to be consumed on the premises will be permitted to allow sales for consumption off the premises. The default extension will not however apply to premises which in the last three years have been refused permission for an off-sales licence, or have had this permission revoked.
- 2.9 Businesses will be authorised for off-sales during their licensed hours for on-sales; this also will extend to premises that already have an off-sales licence, even if the existing off-sales licence is currently for shorter hours than the on-sales hours. Government is producing guidance which sets out further details about this new process which will be published shortly.
- 2.10 The Act sets out an expedited off-sales review process which will enable responsible authorities under the Licensing Act to apply for a review of an off-sales licence if they believe one or more of the Act's objectives are being contravened. In the event of an application for a review, the licensing authority can consider whether any interim steps should be taken within 48 hours and must review the off-sales licence within 28 days. Interim steps could include modifying conditions linked to the off-sales licence or revoking it altogether (although this may not alter the pre-existing conditions on the premises licence).

### **3.0 Proposals**

- 3.1 These are new powers and as such are not covered by the current decision making process of the Council and therefore a proposed scheme of delegation is set out at **Appendix 1**.
- 3.2 It is proposed that an application fee of £50 is charged for the Pavement Licence with a renewal fee of £25.00
- 3.3 As the situation with coronavirus controls are changing rapidly it is not considered appropriate to issue a licence to the full term of 12 months as it may be that the necessity to have increased capacity by providing an outside area is no longer present. It is therefore proposed to issue all pavement licences with an end date of 31 March 2021. This will allow the Council the ability to review the controls and decide if pavement licences are still required. Any existing licence holder will be permitted to renew at the reduced fee as set out above.

- 3.4 The proposed conditions to be attached to the licence are attached as **Appendix 2**.
- 3.5 The Council has a requirement to consult the Highways authority on every application. It is proposed that the organisations set out below will be the consulted on each application:

Highways Authority  
Nottinghamshire Police  
NSDC Planning Business Unit  
The relevant Town or Parish Council  
Environmental Health

#### **4.0 Equalities Implications**

- 4.1 There are specific references in the Act to ensure that any street furniture authorised by the licence does not cause an obstruction and that the authority specifically consider the needs of disabled people and those that are partially sighted. This will be considered for all applications.

#### **5.0 Financial Implications**

- 5.1 The administration of the licences will be met within existing resources.

Revenue Current Year

It is not considered that the licences will generate any sizable income. It is estimated that we will receive less than 10 applications.

Revenue Future Years

All licences will cease on 31 March. Renewals may be received but no substantial income is predicted. The provisions allowing the district council to issue licences come to an end on 30 September 2021

#### **5.0 RECOMMENDATIONS that:**

- (a) Members approve the scheme of delegation set out at Appendix 1;**
- (b) approve the fee of £50 for application and £25 renewal;**
- (c) agree the standard conditions attached as appendix 2; and**
- (d) approve the list of consultees as**

**Highways Authority  
Nottinghamshire Police  
NSDC Planning Business Unit  
The relevant Town or Parish Council  
NSDC Environmental Health**

### Reason for Decision

To enable the provisions of the Business and Planning Act 2020 relating to Pavement Licences be implemented so as to support the local economy.

### Background Papers

Business and Planning Act 2020

For further information please contact Alan Batty on Extension 5467.

Matthew Finch

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